

ESTTA Tracking number: **ESTTA89461**

Filing date: **07/12/2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

### Petitioner Information

Name	BertaHesenMinten		
Entity	Individual	Citizenship	NETHERLANDS
Address	De Braak 11 5963 BA Hegelsom, NETHERLANDS		
Attorney information	Julie K. Morriss Morriss O'Bryant Compagni, P.C. 136 South Main Street Suite 700 Salt Lake City, UT 84101 UNITED STATES marks@utahpatents.com, morriss@utahpatents.com Phone:8014780071		

### Registration Subject to Cancellation

Registration No	3084870	Registration date	04/25/2006
Registrant	Emma L. Petersen and Susan L. Aucion Joint Venture, The 217 Copper Street Kingman, AZ 86401 UNITED STATES		
Goods/Services Subject to Cancellation	Class 028. First Use: 2005/01/24 , First Use In Commerce: 2005/01/24 Goods/Services: Collectables in the nature of Bears, Dolls and Animals, all the forgoing jointed and crocheted, sewn, felted and soft sculpted from various fibers and materials		

Attachments	Cancellation Petition - Thread Teds By Thread Bears.pdf ( 4 pages )(19223 bytes )
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Signature	/Julie K. Morriss/
Name	Julie K. Morriss
Date	07/12/2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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Berta Hesen-Minten,

Petitioner,

v.

Emma Lee Petersen and  
Susan Lynn Aucoin,

Respondents.

In re the matter of:

Registration No.: 3,084,870

Mark: THREAD TEDS BY THREAD  
BEARS

Registration Date: April 25, 2006

FILED VIA ESTTA

PETITION TO CANCEL

Petitioner, Berta Hesen-Minten, is an individual and citizen of The Netherlands, doing business as ThReAdTeDs, and has a business address of De Braak 11, 5963 BA, Hegelsom, The Netherlands.

To the best of Petitioner's knowledge, the names and addresses of the current owners of the above-identified registration are Emma Lee Petersen, 217 Copper Street, Kingman, Arizona 86401 and Susan Lynn Aucoin, 2728 Lillie, Kingman, Arizona 86401 (collectively "Respondents"). Respondents have an e-mail address of "threadybears@citlink.net."

Petitioner believes that she will be damaged, and is being damaged, by the above-identified registration, and hereby petitions to cancel the registration on the grounds as set forth hereinafter.

The grounds for cancellation are as follows:

1. Petitioner is a designer and maker of miniature bears and other animals made out of thread and other fiber materials.
2. Petitioner sells her animal creations under the mark ThReAdTeDs, which is the subject of pending Serial No. 78/573,528, filed February 23, 2005.
3. Petitioner has been selling her hand-made creations in international commerce, including the United States, under the mark ThReAdTeDs since at least as early as March 2, 2002.
4. Petitioner registered the domain name "threadteds.com" on March 6, 2002, and has been using that domain name since its registration to sell her creations internationally.
5. Respondents are makers and sellers of bears and other animals made of thread, and are part of a large international community of thread bear makers which corresponds frequently via the Internet with each other. Petitioner is also a member of that community of thread bear makers.
6. Respondents are acquainted with Petitioner as fellow members of the thread bear-making community and have been corresponding via the Internet with Petitioner since at least as early as February 2003 concerning Petitioner's thread bear creations sold under the mark ThReAdTeDs.
7. On information and belief, Respondents have, since at least as early as April 2002, been aware of Petitioner's creations and that Petitioner sells her creations under the mark ThReAdTeDs.
8. Respondents filed Application Serial No. 78/553,324 on January 25, 2005

seeking to register the mark THREAD TEDS BY THREAD BEARS in connection with collectibles in the nature of bears, dolls and animals crocheted, sewn, felted and soft sculpted from various fibers and materials. Respondents claim a date of first use of the mark in commerce as of January 24, 2005.

9. In the filing of Serial No. 78/553,324, Respondents declared under penalty of perjury that they believed themselves to be the exclusive owners of the mark sought for registration and that no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive.

10. Respondents made the foregoing stated Declaration under penalty of perjury at a time when Respondents knew and were aware that Petitioner was and had been selling her creations under the mark ThReAdTeDs prior to the date of Respondents' filing of the subject application.

11. Further, on information and belief, Application Serial No. 78/553,324 matured into Reg. No. 3,084,870 upon grounds that were contrary to the internal directives of the Office as to the issue of the generic status of THREAD BEARS.

12. Reg. No. 3,084,870 issued with a disclaimer made by the Respondents that Respondents disclaimed any exclusive rights to the words THREAD TEDS separate and apart from the registered mark. However, since issuance of the Registration, Respondents have advanced a claim of exclusive rights to the words THREAD TEDS to successfully relinquish Petitioner's rights to use her mark ThReAdTeDs in connection with sales of her creations on eBay. Consequently, Respondents have acted improperly

in attempting to enforce the Registration against Petitioner's lawful and legitimate use of Petitioner's mark.

13. The mark THREAD TEDS BY THREAD BEARS is confusingly similar to Petitioner's mark ThReAdTeDs and is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection or association of Respondents to Petitioner, or as to the origin, sponsorship or approval of Respondents' goods. The marks look and sound similar, contain similar elements, are used in connection with the same or similar goods, which are sold to the same group or class of consumers.

WHEREFORE, the Petitioner, Berta Hesen-Minten, prays that U.S. Registration No. 3,084,870 for the mark THREAD TEDS BY THREAD BEARS be cancelled on the grounds that the mark is confusingly similar to Petitioner's mark, that Petitioner has a superior right based on prior use of the mark ThReAdTeDs, that the Registration at issue was fraudulently obtained, and on any and all other grounds statutorily or equitably available to Petitioner for cancellation of the Registration as herein alleged.

Respectfully submitted,

SIGNED - /Julie K. Morriss/

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DATE: July 12, 2006